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STATE OF NEW JERSEY
DEPARTMENT OF LAW & PUBLIC SAFETY
DIVISION OF CONSUMER AFFAIRS
NEW JERSEY STATE BOARD OF DENTISTRY

IN THE MATTER OF THE SUSPENSION
OR REVOCATION OF THE LICENSE OF

Administrative Action

TERRENCE D. STRADFORD, D.D.S.
License No. DI 17551

**FINAL ORDER
OF DISCIPLINE**

Licensed to Practice Dentistry
in the State of New Jersey

This matter was opened to the New Jersey State Board of Dentistry ("Board") upon receipt and review of information related to an ongoing investigation of Terrence D. Stradford, D.D.S., ("respondent"). The Board issued a Provisional Order of Discipline on May 28, 2003, in which it made preliminary findings of fact and conclusions of law related to Dr. Stradford's cooperation with the Board's investigation into his practice. Among the preliminary findings of the Board were that respondent held a current license to practice dentistry, that attempts by the Enforcement Bureau of the Division of Consumer Affairs to inspect his premises were unsuccessful, that respondent failed on two occasions to provide the patient record for patient Z.S., and failed to comply with a Board subpoena to appear and to provide ten patient records in a timely fashion.

The Board's provisional order concluded that certain actions of respondent, specifically his failure to cooperate with the Board's October 21, 2002 request to provide the patient record for patient Z.S.; his failure to cooperate with the Board's subsequent request dated January 22, 2003, to provide the patient record of Z.S.; and his failure to

cooperate with the Board's March 12, 2003 subpoena, returnable April 9, 2003, which required him to provide the original or true copies of the treatment and billing records for ten patients which were listed in the subpoena, constituted ample bases for disciplinary action pursuant to N.J.A.C. 13:45C-1.2 (licensee's failure to cooperate) and as professional or occupational misconduct within the meaning of N.J.S.A. 45:1-21(e). Because as of the date of the Board's provisional order, respondent was still not in compliance with the requests for information, the Board devised an order that called for the suspension of respondent's license for a period of ninety days, and, upon completion of the ninety days, such suspension would continue until such time as respondent complied with the requests for the record for patient Z.S. and with the subpoena for ten specific patient records. In addition, the Board provisionally assessed a civil penalty of \$10,000.

The terms of the Provisional Order of Discipline provided respondent with the opportunity to submit information to support a modification of the terms of the order or to provide mitigation for the Board's consideration. That information was to be submitted within thirty business days of the order's entry.

On June 30, 2003, the Board received a response from Dr. Stradford. The envelope containing the response was labeled "1 of 2." It contained a copy of the patient record for Z. S. The response also included a "narrative" as requested by the Board. Despite diligent efforts, Board staff was unable to locate the second envelope. Joseph Donofrio, Deputy Attorney General, contacted respondent's counsel to determine the contents of the second package and to obtain a copy of the material that was purportedly submitted. His efforts, as detailed in his letter to the Board dated October 6, 2003, were not successful.

In October, 2003, at the time the Board reviewed the materials and correspondence from the deputy attorney general, it determined that the significant sanctions contemplated by the Provisional Order warranted one more opportunity for respondent to answer the Board's preliminary findings of fact and conclusions of law, particularly since the second envelope remained missing. By letter dated October 21, 2003, the Board directed that the Attorney General provide certifications related to the facts as provisionally found and directed respondent to provide any information for the Board's consideration as well as the contents of the missing package (i.e., "2 of 2") by a date certain.

On November 19, 2003, the Board reviewed the following materials. From the Attorney General: Letters from Deputy Attorney General Donofrio dated October 6, 2003, and November 12, 2003 (with attachments: certification of Kevin B. Earle, Executive Director, State Board of Dentistry, attaching to that certification copies of computer licensing screen; letter to Dr. Stradford from Mr. Earle dated October 21, 2002; letter to Demetrius Parrish, Esq., from Mr. Earle dated January 15, 2003; subpoena dated March 12, 2003 to Dr. Stradford; memorandum and certification of service of subpoena). From respondent: facsimile cover sheet from the Law Offices of Demetrius Parrish, Jr. Esq. (indicating a total of 59 pages); letter dated November 10, 2003 from Mr. Parrish; certification of Dr. Stradford; letter from Dr. Stradford dated November 10, 2003; letter from Dr. Stradford dated November 7, 2003; *Curriculum Vitae* of Terrance D. Stradford, D.D.S.; letter dated September 30, 1999, to Dr. Stradford from Kenneth Chance, D.D.S.; letter dated July 7, 1998 to Dr. Stradford from Roberto N. Lucente; letter dated August 2, 1999 to Dr. Stradford from R. Craig Johnson; and patient records for M.L., C.H., M.M., S.D., W.D., T.S., and V.B.

In his November 10, 2003 submission, which was faxed to the Board, respondent provided a certification that briefly addressed the issues of the three attempted inspections. In that certification he also stated that on or about January 22, 2003, he provided a copy of the appointment book as had been requested. He certified that he had provided the requested patient records to the Board on or about June 30, 2003, and was providing them again. He further referenced a letter and a *curriculum vitae* which he incorporated into his certification.* He stated: "I believe I have fully cooperated with the board and I am willing to allow an inspection at a time convenient for all concerned."**

In considering the specific factual contentions that underpin the Provisional Order (that respondent failed to provide the patient record for Z.S. despite two requests, and that he failed to comply with the subpoena returnable April 9, 2003 seeking ten patient records), respondent does not present information that demonstrates the allegations are incorrect. The closest respondent comes to addressing his failure to respond to requests for information is a statement in the November 10, 2003 letter:

I did not ignore the letters or correspondence that are sent. I simply have not received them. For almost 2 years the office has undergone a lot of renovation and 90% of the time I was in New York or lecturing to Dentists

*In fact, two letters were appended to the certification, one dated November 10, 2003, the second dated November 7, 2003. As the certification does not indicate which letter is incorporated as part of the certification, for purposes of deciding this matter, the Board has considered both letters to be "certified" as true.

**The Board has considered respondent's statements regarding the attempted inspections of his professional premises. While the board does not find the assertion that an investigator with the Enforcement Bureau would fail to identify herself credible, the Board did not in its provisional order identify conduct related to those attempted inspections as a basis for sanction and has not relied on those incidents in reaching its conclusions here.

about Implants and related materials. During that time I would only receive some packages, if my mailbox was full my mail would be held at the station and ultimately returned to the sender. This was done without my knowledge, had I known I would have picked up my mail at the post office.

The Board has reviewed all the documents to determine whether the provisional findings of fact have been demonstrated, whether the response raises issues of fact that required additional fact finding, and whether respondent has presented any information that would mitigate or persuade the Board to alter its preliminary conclusions of law and the penalty sought to be imposed.

After thorough and careful review the Board is constrained to alter its preliminary findings as to respondent's failure to cooperate with the Board's request of October 21, 2002 . The October 21, 2002 letter to Dr. Stradford cites his obligation to comply with the Board's patient record rule. The letter directed respondent to forward the chart of patient Z.S. within 14 days to another dentist and to return a copy of the letter indicating that the task had been completed. While there is no indication in the record that Dr. Stradford did forward those records to the designated dentist, the preliminary finding in the Provisional Order of Discipline stated that Dr. Stradford was to forward those records to the Board. The basis for the violation of the Duty to Cooperate regulation was his purported failure to forward to the Board the patient record in response to the October 21, 2002 request. While respondent and his counsel have not raised the issue in their response, and despite the fact that the Board's letter of January 15, 2003, referenced the October 21 letter and the request that the record of Z.S. be sent to the Board, because the preliminary finding

is flawed factually the Board will not find a failure to cooperate as to the October 21, 2002 request.

As to the second provisional finding, that is not providing copies of the patient record of Z.S. as requested by the Board's January 15, 2003 letter to respondent's counsel, nothing in the Board's review of the parties' submissions has altered the Board's preliminary conclusions that respondent has violated his duty to cooperate as to that request. That letter rescheduled respondent's appearance pursuant to a subpoena returnable January 8, 2003". Respondent was instructed to produce his appointment book on the new return date of January 22, 2003. The letter also directed respondent to produce the record of Z.S. within three days of receipt of the January 15, 2003 letter which was faxed to his counsel. There can be no question but that respondent had notice of the

*While the Board finds that the October 21, 2002 letter requesting the patient record of Z.S. did not require that the record be forwarded to the Board, the Board's file demonstrates that there were two earlier requests for the record of Z.S. The first was dated May 25, 2002. When no response to that request was received, a second request was sent by certified mail on September 26, 2003. That letter was returned "unclaimed." While the return of the second request as "unclaimed" is consistent with respondent's statement in his letter of November 10, 2003 that mail was returned to senders, respondent had an obligation to ensure that correspondence sent to his address of record was received. His failure to claim his mail may well have supported a finding of a violation of the Board's regulations but that issue is not before the Board. Moreover, because the provisional order does not cite the May and September 2002 requests for the patient record of Z.S., and made no preliminary finding that such conduct violated the Board's statute or regulations, no action is taken on the failure to respond to those two earlier requests.

**Respondent failed to appear on January 8, 2003, return date of the subpoena. His attorney called the Board office that morning and advised that respondent's office had been broken into. The Board requested and received a copy of a police report relating to that incident.

Board's January 15, 2003 letter as he produced a copy of his appointment book by January 22, 2003. The record of Z.S., however, was not produced within three days or indeed by January 22, 2003 when respondent provided the appointment book. As a result, Z.S. was included in the list of patients whose records were demanded pursuant to the subpoena dated March 12, 2003, returnable April 9, 2003. In fact, the Board finally received the patient record of Z.S. on June 30, 2003, after the entry of the Provisional Order of Discipline, when it arrived in the envelope marked "1 of 2." Without doubt, the preliminary finding that respondent failed to comply in a timely fashion with the request for the patient record of patient Z.S. dated January 15, 2003, may be adopted as final.

As to the third provisional finding, not complying with the Board's March 12, 2003 subpoena returnable April 9, 2003, the Board's review of the parties' submissions has not altered the Board's preliminary conclusions that respondent has violated his duty to cooperate. The subpoena was personally served by the Enforcement Bureau by delivering the subpoena to respondent's counsel's law office. Nothing was submitted in response to that subpoena by the April 9, 2003 return date. Only after the filing of the Provisional Order of Discipline did respondent submit the patient records to the Board. (The determination that respondent submitted patient records on June 30, 2003 gives respondent the benefit of the doubt that the patient records for M.L., C.H., M.M., S.D., W.D., T.S., and V.B. which were received by the Board on November 10, 2003, were part of the June 30, 2003 package "2 of 2" that was not located by Board staff.) The Board notes here that the Provisional Order states that the subpoena requested ten patient records. Our review demonstrates that one of the patients whose records were requested is listed twice. Respondent, therefore, was asked to produce and had a duty to produce the records for

nine patients, including Z.S. Even with his submission on November 10, 2003, however, respondent produced records for only eight patients, having failed to produce a record for patient M.J. To this day, respondent has failed to comply fully with the subpoena. More telling, however, in connection with the finding that he has failed to cooperate, is that despite the initial opportunity to respond to the provisional order and the second chance to put forward an explanation that would cause the Board to reconsider its proposed penalty, respondent has provided no explanation as to why those records were not produced pursuant to the Board's subpoena in April 2003.

Dr. Stradford's response falls woefully short of any reasonable explanation for his failure to provide the patient record of Z.S. in January and his failure to comply with the Board's subpoena. In his certification he states: "I believe that I have fully cooperated with the board and I am willing to allow an inspection at a time convenient for all concerned." That statement finds no basis in fact. His demonstrated pattern of failing to respond to Board requests for information and the absence of any meaningful explanation for those failures compels this Board to enter a final order of discipline. The Board rejects respondent's purported mitigation that he did not receive correspondence. A licensee has an obligation to receive correspondence sent to his address of record.* The suspension and penalties imposed by this order are necessary and appropriate given the circumstances of this case. While the Board has found that the failure to cooperate with

*See N.J.A.C. 13:30-8.12 which requires licensees to advise the Board of changes of address not later than 30 days following the change and states that "[s]ervice of an administrative complaint or other Board-initiated process at a licensee's address currently on file with the Board shall be deemed adequate notice for purposes of N.J.A.C. 1:1-7.1 and the commencement of disciplinary proceedings."

the October 21, 2002 request is not a basis for action, respondent's failure even now to have complied with the subpoena causes the Board to sustain the provisional order's penalty of \$10,000 and the ninety day suspension, to be continued until compliance. The Board notes respondent has within his power the ability to eliminate the indefinite suspension which follows the fixed suspension of ninety days. He may do so by complying fully with the Board's subpoena of March 12, 2003, by producing the patient record of M.J.

FINDINGS OF FACT

1. Respondent is licensed to practice dentistry in the State of New Jersey and has been a licensee at all times relevant hereto.

2. On or about January 15, 2003, Board staff faxed a letter dated January 15, 2003 to respondent's attorney. The letter advised that an investigative inquiry, which was originally scheduled on January 8th but cancelled by respondent, had been rescheduled for January 22, 2003. The letter instructed respondent to provide the Board with the appointment book(s) for 2001 to the present by January 22, 2003. Additionally, respondent was directed to produce copies of the entire patient record for the patient Z.S. within three days of receipt of that letter.

3. As of May 28, 2003, the date of the filing of the Provisional Order of Discipline, respondent had not provided the records for patient Z.S. to the Board.

4. On March 31, 2003, an investigator with the Enforcement Bureau personally delivered the March 12, 2003 subpoena (returnable on April 9, 2003) to the law office of Demetrius Parrish, Esq. The subpoena directed respondent to provide the original or true copies of the entire treatment and billing records for nine patients, including Z.S.

5. Respondent failed to produce the demanded records by the return date of the subpoena.

6. As of May 28, 2003, the date of the filing of the Provisional Order for Discipline, respondent had not provided the records demanded by the March 12, 2003 subpoena.

7. On or about June 30, 2003, the Board received a package containing a copy of the patient record for Z.S.. The package was labeled "1 of 2."

8. On or about November 10, 2003, respondent provided to the Board copies of seven patient records as required by the March 12, 2003 subpoena. He certified that those records were submitted to the Board as part of the June 30, 2003 submission.

9. To date, respondent failed to provide the patient record for M.J. as required in the March 12, 2003 subpoena.

CONCLUSIONS OF LAW

1. The above findings of fact provide grounds for disciplinary action against respondent's license pursuant to N.J.S.A. 45:1-21 and N.J.A.C. 13:45C-1.2.

2. Respondent failed to cooperate with the Board's request, dated January 15, 2003, by failing to provide the Board with the patient records of Z.S. in the time requested by the Board. Failure to cooperate with the Board's request is a violation of N.J.A.C. 13:45C-1.2 and constitutes professional or occupational misconduct within the meaning of N.J.S.A. 45:1-21(e).

2. Respondent failed to cooperate with the Board's March 12, 2003 subpoena, which was returnable April 9, 2003, by failing to provide the original or true copies of the treatment and billing records for nine patients which were listed in the subpoena in a timely fashion. Failure to provide the Board with these patient records constitutes a violation of

N.J.A.C. 13:45C-1.2 and professional or occupational misconduct within the meaning of N.J.S.A. 45:1-21(e).

3. Respondent failed to cooperate with the Board's March 12, 2003 subpoena, which was returnable April 9, 2003, by failing to provide the original or true copies of the treatment and billing records for patient M.J., which record was not produced even after the filing of the Provisional Order of Discipline on May 28, 2003 or after the Board's letter of October 21, 2003. Continuing failure to provide the Board with this patient record constitutes a violation of N.J.A.C. 13:45C-1.2 and professional or occupational misconduct within the meaning of N.J.S.A. 45:1-21(e).

ACCORDINGLY, IT IS on this 30th day of January, 2004,

ORDERED that:

1. Respondent's license to practice dentistry in the State of New Jersey is hereby suspended for a period of ninety (90) days, which suspension shall commence on February 22, 2004 and continue through May 23, 2004, inclusive.


2. The suspension imposed by this order shall continue indefinitely past the term set forth in paragraph one above until respondent provides the original or certified true copies of the original record of patient M.J.

3. Prior to resuming active practice in New Jersey respondent shall be required to appear before the Board (or a committee thereof) to demonstrate fitness to resume practice and compliance with the Board investigation.

4. Respondent is assessed a civil penalty in the aggregate amount of ten thousand dollars (\$10,000) for failing to cooperate with the Board's requests for patient records resulting in the filing of the Provisional Order of Discipline. The penalty shall be

paid by money order or certified check made out to the State of New Jersey and delivered to the Board of Dentistry, P.O. Box 45005, 124 Halsey Street, Sixth Floor, Newark, NJ 07101, no later than 30 days after the entry of this Final Order of Discipline. In the event respondent fails to make a timely payment, a certificate of debt shall be filed.

NEW JERSEY STATE BOARD OF DENTISTRY

By: 
John F. Ricciani, D.M.D.

President